

REMARKS

This is responsive to the Office Action mailed November 14, 2006.

Section 102 Rejections

Claims 1 - 4 and 16 - 18 stand rejected under 35 U.S.C. §102(b) as being anticipated by Donoghue, U.S. Patent No. 3,347,420 ("Donoghue").

Claim 1 has been amended to clarify a feature of the openings of the container not taught or suggested by Donoghue. The amendment finds support in the specification in the Figures as originally filed, and in the specification at (a) Page 9, lines 7 - 8 ("In all these uses, it is commonly desired to prepare a quantity of food . . . that can be removed from storage over time . . ."); (b) Page 9, lines 19 - 21 ("containers . . . are adapted for freezer storage of food . . . in liquid or semi-liquid form prior to freezing"); and (c) Page 10, lines 3 - 6 ("When the container is formed of plastic, the plastic is preferably formed . . . so that the containers can be easily twisted in the manner of the plastic ice-cube tray to facilitate removal of frozen contents").

The specification therefore discloses that a substance can be introduced into the compartments in liquid form, thereafter frozen, and then removed while still frozen (to allow for storage in the freezer and removal of contents over time). The plastic embodiment further allows for "twisting" the container to facilitate removal in the manner of the typical plastic ice-cube tray, but it is not essential to provide this feature, as many standard ice-cube trays do not, including Spreen.

It is further respectfully submitted that the amendment merely introduces a functional limitation, i.e., no attempt is being made to claim either the substance or the processing of that substance recited in the claim. The claim remains drawn to the structure of the container only.

It would not have been obvious to modify Donoghue to provide the claimed configuration because there was no motivation to do so, since Donoghue does not contemplate measuring, storing, or dispensing anything other than liquids.

Section 103 Rejections

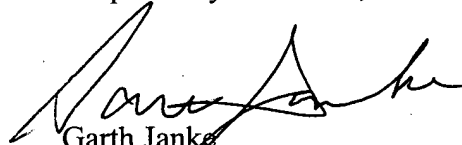
Claims 1 - 6 and 16 - 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable Spreen, U.S. Patent No. 1,688,887 ("Spreen") in view of Fraenkel, U.S. Patent No. 6,311,500 ("Fraenkel") and Shepherd, U.S. Patent No. 2,863,305 ("Shepherd") or Hughes, U.S. Patent No. 5,520,278 ("Hughes").

Applicant has taken issue with these rejections on a number of different grounds. Most fundamentally, these rejections are not supported by substantial evidence. The Examiner asserts that a person of ordinary skill, prior to Applicant's invention, would have recognized that providing filling indicia on an ice cube tray would "provide more convenience to a user." The rationale, or logic of this assertion requires two factual predicates: (1) there was a recognized need for a user of an ice-cube tray to fill the tray to one or precise levels, and (2) such a user having such a need would also fill the ice-cube trays by sight, so that filling indicia could provide the asserted convenience.

While there is support for predicate #1 (Fraenkel), there is no evidence of record to support predicate #2, as has been explained in previous correspondence. It is respectfully submitted that, since both factual predicates are logically required to support the rejections, and since one of these

predicates has no actual basis in the factual record, maintaining the rejections requires introducing additional evidence sufficient to properly support the rejections. In the absence of the provision of some evidence to support these grounds for rejection, it is respectfully submitted that these grounds of rejection should be withdrawn.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Garth Janke', written over the printed name.

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